

LICENSING SUB-COMMITTEE C

A meeting of the Licensing Sub-Committee C was held on 14 November 2013.

PRESENT: Councillors Taylor (Chair); Councillors G Purvis and J A Walker

ALSO IN ATTENDANCE: Mr Rashid Ahmed - DPS/Manager - Club Bongo International
Simon Catterall - Legal Adviser for Club Bongo International
Marie Nevison - Legal Adviser for Cleveland Police
Sgt P Higgins - Police Licensing Unit

OFFICERS: B Carr, C Cunningham and T Hodgkinson

DECLARATIONS OF INTERESTS

There were no Declarations of Interest made at this point of the meeting.

13/5 EXCLUSION OF PRESS AND PUBLIC

All of the Interested parties present at the meeting indicated that they did not think it necessary at this point of the meeting to exclude the press and public.

13/6 SUMMARY REVIEW OF PREMISES LICENCE - REPRESENTATION AGAINST INTERIM STEPS IMPOSED - CLUB BONGO INTERNATIONAL, 11-12 BRIDGE STREET WEST, MIDDLESBROUGH, TS2 1AW - REF NO: PRO052

A report of the Assistant Director of Development and Planning Services had been circulated outlining that representations had been received against interim steps imposed in relation to an application to Review the Premises Licence in relation to Club Bongo International, 11 -12 Bridge Street West, St Hilda's Middlesbrough, TS2 1 AW - Ref No: MBRO/ PR0052.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

The Principal Licensing Officer advised that on 31 October 2013, Cleveland Police had submitted an application for a Summary Review of the above premises licence under Section 53A of the Licensing Act 2003, following concerns regarding a serious incident that had occurred at the premises on 27 October 2013.

The application was considered by the Licensing Sub Committee C on 4 November 2013 and following representations from Cleveland Police and the Premises Licence Holder, Members decided to impose an immediate suspension of the Premises Licence pending a full Review hearing. The premises had remained closed since 4 November 2013.

On 12 November 2013 the Premises Licence Holder had submitted representations against the interim measures imposed by the Licensing Sub Committee on 4 November 2013 and Members were asked to reconsider their previous decision to suspend the Premises Licence until the full Review hearing.

The Principal Licensing Officer outlined the options available to Members in relation to the representations against interim steps. The Chair invited the Premises Licence Holder's Legal Representative to address the Committee against the interim steps.

The Premises Licence Holder's legal representative advised the Committee that he was aware that the incident that had taken place on 27 October was very serious and that it had generated a Review of the Premises licence and the initial suspension of Club Bongo International's premises licence. The legal representative acknowledged that CCTV footage of the incident had not been available to the Police and that there had been further historical incidents of the Police having difficulty retrieving CCTV footage from the premises however he reiterated that this was when the previous DPS was in place.

The Committee was advised that Mr Ahmed was the present DPS and he had been in place

at the premises for a period of eighteen months. The legal representative advised that there had been previous occasions when the Police had carried out inspections and found the CCTV system to be working, in particular in April 2013 when CCTV footage had been provided to the Police upon request.

The legal representative acknowledged that when the Police had requested CCTV footage in respect of the incident that had occurred on 27 October, the CCTV system was not working, and had not been operational since August 2013. The Committee was advised that a power cut had occurred, and although the monitors appeared to be working the CCTV system was not recording.

Members were advised that a new enhanced CCTV system had been installed with a double back up drive. The Police had inspected the new system on 13 November 2013 and had given their approval to the system. The legal representative suggested that the Committee could place a condition on the licence to specify that a member of staff should be trained on how to operate the system. The condition could also specify that inspections should be carried out at the start and end of each trading day to say that the CCTV system had been checked to ensure it was recording and that these inspections should be recorded in a book.

The legal adviser also suggested that a condition be placed on the licence which would require random searches using hand held search devices such as metal detectors to search for weapons or drugs and the club would be willing to comply with such a condition.

In terms of the CCTV system the legal adviser suggested that the club would be willing to re-site any of the CCTV cameras in accordance with a schedule to be submitted by or agreed with the Police. The legal adviser reminded Members that although the club was unable to produce any CCTV footage in respect of the incident that occurred on 27th October 2013, they had handed over items of evidence and the details of witnesses to the incident.

The legal adviser stated that the incident and the ensuing press coverage had been very damaging to the reputation and the trade of the club and he stressed that the assaults were not committed by any of the staff or door staff of the club and the people who had been involved in the incident had been ejected from the club as soon as possible.

The Committee was advised that the club had opened the weekend prior to the meeting however only 30 or 40 customers had attended. Members were advised that the club only opened on Fridays and Saturdays and the customers were generally regular customers that arrived around 12.45am and left at 3.30am. The premises had been owned and operated by the same family for over fifty years. The legal adviser stated that the Premises Licence Holder and the DPS were willing to cooperate with the Police to ensure that the premises promoted the licensing objectives.

In response to a query whether the club had called an ambulance for the victim of the assault, the DPS advised that the extent of the injuries to the victim were not immediately apparent to the DPS. The incident was over in two minutes and the DPS did not realise how badly the victim had been hurt. The DPS advised that he was not aware that a blade had been used in the assault as he would have called the Police for assistance.

A Member queried whether the club had a procedure in place for dealing with violent incidents or fights at the premises. The legal adviser informed Members that the premises employed three doormen and in future they intended to conduct searches of customers using hand held search devices. The DPS advised that it was the first fight that had occurred at the premises in a six month period. The club was considered a safe place to visit because of the low level of violence and the fact that people who caused trouble were barred from the premises.

In response to a query with regard to whether the other person involved in the fight had received any assistance, the DPS advised that the club had offered first aid however he had cleaned himself up and left the premises.

The Chair of the Committee queried when the power cut had occurred at the premises. Members were advised that the power cut had occurred on the Bank Holiday on 25 August

2013. The DPS had arrived at the premises one and a half hours before the premises were due to open and the alarms were going off and it appeared that there had been a power cut. At quarter to ten the power had been turned back on and it appeared that all the cameras and monitors were working. The DPS advised that the system was very difficult to operate and he had to call somebody out if footage was required. He advised that the Police had also experienced difficulty in retrieving information from the CCTV system.

The DPS advised that there was no alarm on the CCTV system to indicate that it was not working. Members were advised that the club had purchased a new "top of the range" CCTV system which had a back up system to ensure that it would continually record.

Cleveland Police

Sergeant Higgins advised that the Police would provide further evidence at the hearing of difficulties in obtaining CCTV footage from the premises and additional information with regard to the assault that had occurred and that a blade was used in the assault.

Sergeant Higgins confirmed that the Police did have a good working relationship with Mr Ahmed, however he stated that the injuries received as a result of the assault were life changing in that the victim was almost blinded. He advised that there needed to be a culture change at the premises and the closure of the premises for one week was not enough to effect this change.

Sergeant Higgins advised that the intention of the Police was to request a suspension of the premises licence and he hoped that the suspension if granted would send a message out to the customers of the club that incidents of this kind would not be tolerated.

In response to a query, Sergeant Higgins confirmed that he had checked the new CCTV system and it was a great improvement on the previous system. A Member queried how many of the staff at the premises were able to operate the previous CCTV system. Sergeant Higgins advised that the Police had experienced difficulties in obtaining footage because the DPS had needed to call people in to retrieve the footage from the system. He advised that on some occasions, the Police had not been provided with any CCTV footage and the Police had concerns that the CCTV system had not been set to record.

Sergeant Higgins advised that in his view the DPS did not know how to operate the system as he had to call people in to retrieve footage. The DPS confirmed that he did have a person on standby to call should any CCTV footage need to be retrieved. He advised that he had been trained on how to use the new CCTV system and although he could operate the new system himself, he would continue to use the other person as a back-up.

The Chair commented that some clubs operated a membership system and he asked if this was what the Police were suggesting that the premises consider. Sergeant Higgins advised that the Police wanted the culture at the premises to change. The applicant's Legal Adviser stated that the premises were aware of who their regular customers were and the fact that the club would operate random searches using hand held search devices such as metal detectors to search for weapons or drugs would send a clear message out to people that the club had changed.

The DPS advised that it was very rare that any violence occurred at the premises and the regulars felt safe. He stated that he thought the incident was a "one off" and that he would do everything in his power to prevent it happening again. He stated that if the club did carry out searches of customers it would send out the message that the culture at the club had changed.

Summing Up

Cleveland Police

The Legal Adviser stated that it was the duty of the Police to ensure that the licensing objectives were promoted rather than undermined and in the view of the Police, the measures

suggested by the applicant would not send a clear message to customers that the culture at the premises had changed.

The Legal Adviser stated that Sergeant Higgins was a very experienced officer and the incident at the premises was a very serious assault. For this reason the Police requested that the suspension of the Premises Licence remain in place until the final review hearing.

Applicant

The Legal Adviser for the applicant endorsed the fact that Sergeant Higgins was a very experienced officer. He stated that the conditions suggested by the applicant were sufficient for Members to lift the suspension and allow the club to trade. The DPS advised that he would work with the Police to ensure the premises promoted the licensing objectives.

It was confirmed that there were no further questions and all interested parties other than the officers of Legal Services and Members Office, withdrew whilst the Committee determined the application.

Subsequently all the parties returned and the Chair announced the Committee's decision.

DECISION

The Committee determined that the interim steps of suspension of the premises licence for Club Bongo International - Ref No: PR0052 remains appropriate for the promotion of the licensing objectives until the full review for the following reasons:-

1. A serious incident occurred at the premises which the Police believed involved a weapon resulting in the victim being slashed down his face requiring 70 stitches to the wound.
2. The Premises Licence Holder has historically failed to comply with CCTV requirements;
3. The CCTV system did not record the incident and the current DPS did not know how to operate the CCTV system;
4. It was noted that a new CCTV system has been installed at the premises and the Premises Licence Holder proposes to search customers for weapons with metal detectors before entry to the premises. However the Committee did not consider that these measures were sufficient in the interim, in view of the seriousness of the crime and the historical failure of the CCTV system;
5. The Committee were also concerned about the way in which the incident was handled by the management of the premises, including the DPS and door staff, by ejecting the victim through the side door and failing to call the emergency services;
6. The Committee believed that the conditions suggested by the Premises Licence Holder were insufficient because of the overall concerns with regard to the management of the club in complying with conditions and preventing and dealing with incidents at the premises.

The Committee considered that the period of suspension may give the Premises Licence Holder the opportunity to ensure that the premises were able to promote the licensing objectives by the full Review hearing.

In making its decision, the Committee considered the following:-

- (i) The certificate under Section 53 A(1)(b) of the Licensing Act 2003 signed by a Superintendent from Cleveland Police;
- (ii) The representations made by the Police at the hearing;
- (iii) The representations made by the Premises Licence Holder at the hearing;

- (iv) The Licensing Act 2003 and Section 53A of the Licensing Act 2003 Summary Review Guidance issued by the Home Office;
- (v) Middlesbrough Council's Licensing Policy